

Denial of Unemployment Benefits to Seasonal Workers

• Information for Workers •

A NEW LAW DENIES UNEMPLOYMENT BENEFITS TO SOME SEASONAL WORKERS BETWEEN SEASONS

Workers wanting to receive unemployment benefits may now be denied those benefits in Michigan if their employer chooses to be considered a “seasonal employer” under the law. This law does not apply to workers in the construction industry.

If a person worked for more than just a seasonal employer, the worker might still be able to collect some benefits.

WHEN WILL A SEASONAL WORKER BE DENIED UNEMPLOYMENT BENEFITS?

A seasonal worker will only be denied unemployment benefits between seasons when each one of the following conditions is met by the employer:

- When the employer chooses to apply to the UA to be a seasonal employer, and posts a copy of the application form for all workers to see;
- When the UA decides the employer is a “seasonal employer”;
- When the employer posts a Notice telling workers that the UA has decided the employer is a “seasonal employer.”

The employer must post the Notice in a place where workers will easily see it. The Notice must tell workers the period the UA says is the employer’s “normal seasonal work period,” a period of up to 26 weeks. The UA will not deny benefits to a worker whose employer has not posted this Notice.

■ When workers receive written notice that they are seasonal

When workers are hired, the employer must inform them, in writing, that they are being hired as seasonal. The UA will not deny benefits to a worker who does not receive this written notice.

■ When the employer has given the worker “reasonable assurance” of returning to work next season.

The employer must give a worker “reasonable assurance” of returning to work next season. Reasonable assurance is not a guarantee of work. It is an employer’s honest belief that there will be work for next season. The work should be about the same as the worker’s last job as far as skills needed, location, wages and benefits.

If it turns out that a worker who had reasonable assurance for the next season is not actually given the job in the new season, that worker could receive the benefits denied before. However, to get these “back benefits,” the worker must file a claim at the end of the old season, and must continue to report by mail or telephone between seasons, as directed by the UA.

■ When the person works only during the employer’s “normal seasonal work period.”

If a worker begins work before the start of the employer’s normal seasonal work period, or continues working past the end of the period, the worker will not be denied benefits when the season ends.

If You Have Further Questions, Call The UA Customer Relations

The UA will answer any further questions.
Call the UA Claimant Customer Relations, toll-free at:

1-800-638-3995

Denial of Unemployment Benefits to Seasonal Workers

• Information for Employers •

A NEW LAW GIVES OPTIONS TO SEASONAL EMPLOYERS

The *Michigan Employment Security Act* now denies unemployment benefits under Michigan law between seasons, to some seasonal workers (other than those in construction) if the employer has given those workers a reasonable assurance of returning to work next season. (The employer must still pay unemployment taxes on the wages paid to seasonal workers, though.) This new provision is effective for seasons beginning on or after July 1, 1996.

An employer wishing to take advantage of this new law must **apply to the UA for designation as a seasonal employer** and must also give certain notices to their seasonal workers.

THE EMPLOYER MUST APPLY TO THE UA FOR DESIGNATION AS SEASONAL

To receive an application form, write the UA TAX OFFICE at 7310 Woodward Ave., 2nd Floor, Detroit, MI 48202 or call, toll-free in Michigan, 1-800-638-3994. The application must be returned to the UA not less than 20 days before the expected beginning of the season.

UA MUST DETERMINE WHETHER AN EMPLOYER IS DESIGNATED SEASONAL

The UA will review the employer's application and will issue a **Determination** notifying the employer of its decision. If the Determination grants the employer seasonal designation, the Determination will also indicate the employer's **normal seasonal work period**, based on information supplied by the employer on the application.

To be designated by the UA as a *seasonal employer*, the employer must offer work in *seasonal employment*.

To be *seasonal employment*, the work must be in an *industry* that does either of the following:

- Customarily operates during regular seasons of not more than 26 weeks within a period of 52 consecutive weeks, or
- Customarily employs at least 50% of its employees during regular seasons of not more than 26 weeks within a period of 52 consecutive weeks.

In addition, the employer's business must, itself, operate seasonally, as described above.

THE EMPLOYER MUST PROVIDE CERTAIN NOTICES TO SEASONAL WORKERS

For a denial period to be applicable to an employer's seasonal workers, the employer must have provided workers with certain "notices" required by the law. The employer must have:

- Posted notice to workers, at the time of the employer's **application** for seasonal designation, that the application has been made;

- Posted notice to workers, once the UA has **determined** the employer to be seasonal, of:
 - the **designation**, and
 - the beginning and ending dates of the **normal seasonal work period**, and
 - the fact that **retroactive benefits** may be payable to a worker for the period between seasons if the work assured for the next season does not materialize and if the worker timely applies for the benefits;
- Written notice to each worker at the time of the worker's status as a **seasonal worker**, and written notice to the worker of any later changes in that status;
- **Reasonable assurance** to the worker that work will be available in the next season.

WHAT IS REASONABLE ASSURANCE?

Reasonable assurance is not a guarantee of employment; it is an employer's "good faith" statement of intent that work will be available for the seasonal worker for the next season. The work should be comparable to the previous work in skills required and location, and in rate of pay and benefits.

BENEFITS ARE DENIED TO WORKERS UNEMPLOYED OUTSIDE THE NORMAL SEASONAL WORK PERIOD

In the application for form seasonal designation, the employer is asked to give the beginning and ending dates for the last 5 completed seasons. The employer may then specify a *normal seasonal work period* of up to 26 weeks. The normal seasonal work period must fall within the period from the earliest beginning to the latest ending dates of the last 5 seasons. If the employer does not specify a period, the UA will assign a period within the 5-year beginning and ending dates.

A *seasonal worker* is the one who is paid wages by a seasonal employer for work performed only during the normal seasonal work period. If a worker either begins working before the start of an employer's normal season work period, or finishes working after the end of that employer's normal seasonal work period, the worker does not satisfy the definition of *seasonal worker* and would not be subject to the seasonal denial period for that year.

If a worker was offered reasonable assurance of returning to work the next season, but then the work does not materialize, the unemployed worker can collect unemployment benefits during that new season. Also, if the employer never makes work available in the new season and the worker applied for unemployment benefits and certified for benefits during the period between seasons, the worker can collect retroactive benefits for the period between seasons.

Negacion de Beneficios de Desempleo ha Trabajadores Temporales

• Informacion para los Trabajadores •

UNA NUEVA LEY NIEGA BENEFICIOS DE DESEMPLEO HA ALGUNOS TRABAJADORES TEMPORALES ENTRE TEMPORADAS

Trabajadores que deseen recibir beneficios de desempleo ahora es posible que puedan negarle esos beneficios en el estado de Michigan, si el empleador de ellos escoge ser designado un “empleador temporal” bajo la ley nueva. Esta ley no aplica ha los trabajadores que trabajan en la industria de construcción.

Si una persona trabajó con un empleador que es temporal, y si trabajó con otro(s) empleador que no son temporales es posible que puedan recibir algunos beneficios.

CUANDO SE LE NEGARAN AL TRABAJADOR TEMPORAL BENEFICIOS DE DESEMPLEO?

A un trabajador temporal se le negarán los beneficios de desempleo entre medio de temporadas cuando el empleador cumpla con las condiciones en seguida.

- **Cuando un empleador escoge aplicar con la Agencia de Desempleo (UA) para ser designado un empleado temporal, y que el empleador ponga una copia de la aplicación en vista de los trabajadores.**
- **Cuando la UA decide que el empleador es un “empleador temporal.”**
- **Cuando el empleador ponga un aviso informando a los trabajadores que la UA decidió, que el empleador es designado un “empleador temporal.”**

El empleador tiene que poner el aviso en vista de todos los trabajadores, el aviso tiene que decirle a los trabajadores el período que la UA dice que es el período de la temporada normal del empleador un período hasta 26 semanas. La UA no le negará los beneficios a un trabajador si el empleador no ha cumplido con poner este aviso.

■ Cuando los trabajadores reciban un aviso escrito que son temporales.

Cuando los trabajadores son empleados por el empleador. El empleador tiene que informales en una forma escrita, que son empleados temporales. Si un trabajador no fue empleado como trabajador temporal pero despues deciden que es trabajador temporal, el empleador tiene que informale al trabajador en forma escrita. La UA no le negará los beneficios al trabajador que no recibió el aviso escrito.

■ Cuando el empleador le ha dado al trabajador “seguridad razonable” que el trabajador regresa ha trabajar en la proxima temporada.

El empleador tiene que darle al trabajador “seguridad razonable” que el trabajador regresa ha trabajar en la próxima temporada. “Seguridad Razonable” no es una garantía de trabajo, es solamente une creencia honesta del empleador que si habrá trabajo para la próxima temporada. El trabajo tiene que ser aproximadamente (mas o menos) igual al trabajo que el trabajador estaba haciendo antes, asi como la habilidad que se necesita, y localizacion, y tambien pagar al menos lo que el pago era antes.

Si resulta que al trabajador le dieron “Seguridad Razonable” para la siguiente temporada, y realmente no le dan el trabajo en la próxima temporada, es posible que el trabajador pueda recibir beneficios que se la negaron antes. Como sea, para recibir estos beneficios el trabajador tiene que aplicar para desempleo, al fin de la temporada que terminó, y tiene que continuar reportando por correo o por teléfono entre medio de las temporadas, depende como lo dirija la UA.

■ Cuando la persona trabaja solamente durante del “período de temporada normal de trabajo del empleador”.

Si un trabajador comienza a trabajar antes del período de la temporada normal de trabajo del empleador o continua trabajando después de que se termine el período, ha ese trabajador no se le negarán los beneficios cuando termine la temporada.

Si Usted Tiene Mas Preguntas, Llame Ha La UA Relaciones Del Cliente

**La UA le contesta mas preguntas, llame ha UA Relaciones
del Reclamante Cliente, Le llamada Es Gratis 1-800-638-3995.**

(Usted sera responsable consiguir su interpetor de Español y Inglés.)